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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,568	02/24/2004	David Levy	1237.01A	9846
29637	7590	10/26/2005		
BUSKOP LAW GROUP, P.C. 1776 YORKTOWN SUITE 550 HOUSTON, TX 77056			EXAMINER HEWITT, JAMES M	
			ART UNIT	PAPER NUMBER
			3679	

DATE MAILED: 10/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/785,568	<b>Applicant(s)</b> LEVY ET AL.	
	<b>Examiner</b> James M. Hewitt	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

26

## **DETAILED ACTION**

### ***Oath/Declaration***

The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

In part 3 of the declaration filed 8/8/05, checking the box labeled "is attached hereto" is incorrect.

Isn't listing the status of the provisional application as "PENDING" incorrect?

### ***Claim Objections***

Claims 1-15 are objected to because of the following informalities:

In claim 1 line 15, "front ferrule" should be replaced with "tube" so as to be in accord with the specification. Refer to paragraph [00022].

In claim 1 lines 21-23, it is unclear as to what "which" modifies, and if "which" modifies the lifting mechanism, it is unclear as to how it can be said that the lifting mechanism compresses the front ferrule against the pressurizable part and the tube.

In claim 7 line 1, "a pressure" of what?

In claim 14 line 14, "a coupling nut" should be replaced with "the coupling nut".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 14 is rejected under 35 U.S.C. 102(b) as being anticipated by Barree (US 4,776,618).

With respect to claim 14, Barree discloses a method for using a tubular connector with a pressurizable part comprising the steps of: sliding a coupling nut (10) over a tube (20); sliding a rear ferrule (30) over the tube; sliding a front ferrule (50) over the tube; sliding a lifting component (40) over the tube forming a ferrule assembly over the tube; inserting the tube into a pressurizable part (70); and applying pressure with the coupling nut to the ferrule assembly forming an upstream seal and a downstream seal between the tube and the pressurizable part.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-9, 12-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barree (US 4,776,618).

Barree discloses a self-energizing tube connector for engaging a pressurizable part (70) comprising: a tube (20) comprising an upstream tube end and a downstream tube end; a ferrule assembly comprising a front ferrule (50), a rear ferrule (30), a lifting component (40), wherein the lifting component slidably engages the front ferrule to cause an upstream seal to form between the pressurizable part and the front ferrule (refer to Figure 1), and a downstream seal between the rear ferrule and the tube (refer to Figure 1); a coupling nut (10) for sliding over the tube and disposed downstream of the rear ferrule for engaging the pressurizable part, wherein the coupling nut is adapted to tighten against the rear ferrule to compress the rear ferrule, the front ferrule and the lifting mechanism (see Figure 1). Barree fails to explicitly teach that his tube is capable of sustaining pressures up to 50,000 psi without deforming. Note however that Barree's tube is of the same outside diameter as the tube claimed in Applicant's invention, and is used in a high pressure environment. Given this, and since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its

Art Unit: 3679

suitability for the intended use as a matter of obvious design choice, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ a tube that is capable of sustaining pressures up to 50,000 psi without deforming.

With respect to claims 2 and 3, refer to col. 3 lines 15-18.

With respect to claim 4, refer to col. 3 lines 19-28.

With respect to claim 5, refer to refer to col. 3 lines 19-28.

With respect to claim 6, the cross-hatching provided in Figure 1 indicates that the pipe is metal.

With respect to claim 7, the pipe is said to withstand high pressures. Barree does not disclose the claimed range. Nevertheless, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the claimed pressure range, since it has been held that where the general conditions of a claim are disclose in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

With respect to claim 8, wherein the coupling nut comprises a threaded engagement with the pressurizable part.

With respect to claim 9, Barree's pressurizable part (70) is a coupling nut. But given the applications in which Barree's device is known to be used, it should be understood that Barree's coupling could constitute part of one of a down hole safety valve, a plurality of chemical injection assemblies, a plurality of tubing hangers, a

plurality of blowout preventors, a plurality of subsea Christmas trees, or a plurality of packers.

With respect to claim 12, wherein the front ferrule comprises a conical shape for engaging the pressurizable part. See Figure 1.

With respect to claims 13 and 15, Barree fails to teach that the coupling nut is a jam nut. However, given that Applicant states that a compression nut or similar compression device could be used, it would have been an obvious matter of design choice to employ a jam nut as Barree's coupling nut.

### ***Allowable Subject Matter***

Claims 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Note that the allowability of claims 10 and 11 is also contingent upon overcoming the above-noted objections to claim 1. See ***Claim Objections*** above.

### ***Response to Arguments***

Applicant's arguments filed 8/8/05 have been fully considered but they are not persuasive.

With respect to the rejection of claim 14 under 35 U.S.C. 102(b) as being anticipated by Barree (US 4,776,618), Applicant asserts "Barree does not have a lifting component as does the current application, part 40 of Barree is similar to the front

ferrule 22 of the current application; however, only the tube 20 of *Barree* creates an outward pressure on the second ferrule 40. In addition, *Barree* does not include a lifting component to create an additional force and thus a tighter seal.” In response, it should be noted that claim 14 requires “sliding a lifting component over the tube forming a ferrule assembly over the tube” and “applying pressure with a coupling nut to the ferrule assembly forming an upstream seal and a downstream seal between the tube and the pressurizable part.” *Barree*’s member (40) has been interpreted as a lifting component insofar as upon tightening of the coupling nut, it is lifted via the rear ferrule, and in turn exerts an outward force to member (50). Tightening of the coupling nut results in sealing via *Barree*’s components along and against the tube and pressurizable part (70).

With respect to the rejection of claims 1-9, 12-13 and 15 under 35 U.S.C. 103(a) as being unpatentable over *Barree* (US 4,776,618), Applicant asserts *Barree* does not disclose a lifting component. *Barree*’s member (40) has been interpreted as a lifting component insofar as upon tightening of the coupling nut, it is lifted via the rear ferrule, and in turn exerts an outward force to member (50). Applicant also asserts “Applicant believes that the O-ring taught in *Barree*...prevents *Barree* from withstanding pressures above 10,000 psi.” In response, it should be noted that this is merely an assertion and Applicant has not provided explicit and convincing support therefor. It should also be noted that throughout his disclosure, *Barree* states that his device is operable at pressures up to and in excess of 10,000 psi. *Barree* offers a variety of materials suitable for the O-ring, and it should be understood that such materials are operable



Art Unit: 3679

and suitable for a range of pressures, including pressures in excess of 10,000 psi and up to 50,000 psi.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

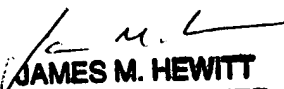
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M. Hewitt whose telephone number is 571-272-7084.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3679

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**JAMES M. HEWITT**  
**PRIMARY EXAMINER**